

APPEAL NO. 030037
FILED FEBRUARY 20, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on December 11, 2002. The hearing officer determined that (1) the compensable injury of _____, includes nasal and maxillary fractures and injury to the upper teeth, but does not include a neck injury, headaches, or dizziness; and (2) the appellant (claimant) had disability beginning March 30 and continuing through July 7, 2002, and on September 12, 2002. The claimant appeals the extent-of-injury determination with regard to the neck injury, headaches, and dizziness, on sufficiency of the evidence grounds. The respondent (carrier) urges affirmance. The hearing officer's remaining extent-of-injury and disability determinations were not appealed and are, therefore, final. Section 410.169.

DECISION

Affirmed.

The claimant attached new evidence to his appeal which would purportedly show that the compensable injury extended to include a neck injury, headaches, and dizziness. Documents submitted for the first time on appeal are generally not considered unless they constitute newly discovered evidence. See *generally* Texas Workers' Compensation Commission Appeal No. 93111, decided March 29, 1993; Black v. Wills, 758 S.W.2d 809 (Tex. App.-Dallas 1988, no writ). Upon our review, the evidence offered is not so material that it would probably produce a different result, nor is it shown that the documents could not have been obtained prior to the hearing below. The evidence, therefore, does not meet the requirements for newly discovered evidence and will not be considered on appeal.

The hearing officer did not err in determining that the compensable injury did not extend to include a neck injury, headaches, and dizziness. The determination involved a question of fact for the hearing officer to resolve. The hearing officer is the sole judge of the weight and credibility of the evidence (Section 410.165(a)) and, as the trier of fact, resolves the conflicts and inconsistencies in the evidence including the medical evidence (Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ)). In view of the evidence presented, we cannot conclude that the hearing officer's determination is so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

The decision and order of the hearing officer are affirmed.

The true corporate name of the insurance carrier is **ST. PAUL FIRE AND MARINE INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CORPORATION SERVICES COMPANY
800 BRAZOS
AUSTIN, TEXAS 78701.**

Edward Vilano
Appeals Judge

CONCUR:

Chris Cowan
Appeals Judge

Terri Kay Oliver
Appeals Judge